

RESOLUTION NO. 2015-04

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH IMPLEMENTING
CHARTER SECTION 805 AND MUNICIPAL CODE CHAPTER 5.90
REGARDING SAFE AND SANE FIREWORKS

WHEREAS, the voters of the City of Huntington Beach approved an amendment to the Huntington Beach Charter adding Section 805 permitting the sale and discharge of Safe and Sane Fireworks subject to City Council regulations; and

The Council finds that orderly distribution and sale of Safe and Sane Fireworks will be accomplished by setting forth rules and procedures via resolution,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

SECTION 1. The City Manager is hereby authorized to implement this resolution, Huntington Beach Municipal Code (HBMC) Chapter 5.90 and Charter Section 805.

SECTION 2. No Permit, as defined by the HBMC, shall be issued to any Qualified Organization that does not satisfy the requirements provided in this Resolution or HBMC Chapter 5.90.

- A. The maximum number of Permits that may be issued shall be fifteen Permits during any one calendar year as follows: A maximum of five Permits shall be issued to Qualified Organizations in each of the three categories provided below, to which an applicant may apply for only one of the categories:

Youth Sports – Youth sports organizations operating within the City whose main purpose is to benefit a valid youth sports activity. Examples include but are not limited to little league, "AYSO" soccer, youth football, basketball, tennis, golf. This category does not include high school extracurricular activities/sports.

High School – High school institutions or groups operating within the City that agree to use the proceeds for the benefit of valid student extracurricular activities/sports.

Civic Organizations – Civic organizations operating within the City whose main purpose is primarily for civic betterment, or charitable or religious purposes. This category does not include high school extracurricular activities or youth sports, but does include adult sports organizations.

- B. Applications may be filed with the City Clerk beginning March 1st, continuing up to 5:00 p.m. on the last business day in March of the same year, at which time the filing period for that year will be closed.
- C. The City Clerk shall conduct a lottery to choose fifteen qualified Permittees that may sell fireworks in the City pursuant to HBMC Chapter 5.90. The lottery will be conducted during a City Council meeting and the City Clerk using some means of random selection.

- D. In Addition to the requirements of HBMC Chapter 5.90 Qualified Applicants must be organized primarily for veterans, patriotic, welfare, civic betterment, religious, athletic, educational, youth development or charitable purposes; must have their principal and permanent meeting place within the City; provides direct and regular community services and benefits to the residents of the City; and have a minimum bona fide membership of at least 20 members who either reside in the City, are employed in the City, or are owners or operators of a business or other establishment located in the City.
- E. If more than one application is submitted on behalf of any nonprofit organization or affiliated organization, the City may disregard one or all of the applications at its sole discretion. Any attempt to transfer an application shall void that application and may preclude an applicant from participating in the lottery in future years.
- F. On a form provided by the City, Qualified Organizations shall provide: the proposed location of the fireworks stand; the name, address and 24-hour telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period fireworks are sold, displayed or stored at such location; and written permission from the owner of record and/or lessor and/or management company of the property upon which said fireworks stand is proposed to be located; the proof of the applicant's status as a qualified organization; date when the applicant was organized and established; the names and addresses of the officers, if any, of the applicant; the name, address, and California State Fire Marshal's license number of any wholesaler or distributor from whom the Qualified Applicant or retailer proposes to purchase for resale; the applicant's State Board of Equalization sales tax permit number; the manner, method and times regarding how the applicant proposes to sell Safe and Sane Fireworks; a copy of the requisite retail sales permit issued by the Office of the California State Fire Marshal; and evidence of a temporary sales tax permit from the California State Board of Equalization.

SECTION 3. Permittees shall provide certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's rating of no less than an A.

- A. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. "Claims made" designation is only acceptable for professional or pollution liability insurance. The City of Huntington Beach, its officers, elected or appointed officials, employees, agents and volunteers must be named as certificate holder and as additional insured by separate attached endorsement. (This wording must be exact.)
- B. Any deductibles, self-insured retentions or similar forms of coverage limitations or modifications must be declared to and approved by the City.
- C. Permittee shall include all sub-Permittees or subcontractors, if any, as insured under its policies or shall furnish separate certificates and endorsements for each sub-Permittees

or subcontractors. All coverage for sub-Permittees shall be subject to all of the requirements stated herein.

SECTION 4. Permittees agree, as a condition of receiving a Permit, to protect, defend, indemnify, and hold harmless, the City, the City Council, its officers, elected or appointed officials, employees, agents, and volunteers from and against any and all third party claims, damages, losses, expenses, judgments, demands and defense costs, however caused, resulting from death or injury to Permittee employees, volunteers, customers, and/or any third party, and/or damage to Permittee property, arising directly or indirectly out of the obligations or operations undertaken by Permittee by virtue of the Permit issuance, caused in whole or in part by any act or omission of the Permittee, any subcontractors, anyone directly or indirectly employed or volunteers or anyone for whose acts any of them may be liable, including but not limited to, concurrent active negligence, except where caused by the sole active negligence, or willful misconduct of the City.

In the event of an injury, claim, lawsuit, or any other dispute, the Permittee will conduct all legal defenses to those injuries, claims, lawsuits, or any other disputes, including the defense of the City if applicable, at its sole cost and expense, and at no cost or expense to the City.

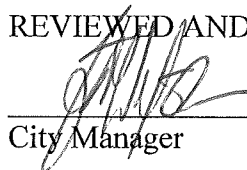
The City shall approve selection of Permittee's counsel. This defense and indemnity obligation shall apply to all claims and liability regardless of whether any defenses and insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Permittee.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 2nd day of February, 2015.



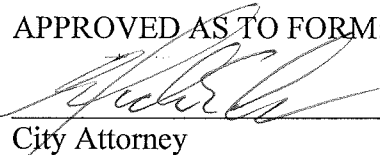
Mayor

REVIEWED AND APPROVED:



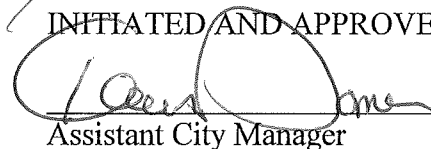
City Manager

APPROVED AS TO FORM:



City Attorney

INITIATED AND APPROVED:



Assistant City Manager

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, JOAN L. FLYNN the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **Regular** meeting thereof held on **February 2, 2015** by the following vote:

AYES: Posey, O'Connell, Katapodis, Hardy, Sullivan, Delgleize, Peterson
NOES: None
ABSENT: None
ABSTAIN: None

A handwritten signature in dark ink, appearing to read "Joan L. Flynn", is written over a horizontal line.

City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California